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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,840	09/11/2003	John S. Greeson	2166.07CIP	4829
	7590 06/08/2001 BECKER & ASSOCIAT	EXAMINER		
707 HIGHWAY 333 SUITE B TIJERAS, NM 87059-7507			LEVY, NEIL S	
			ART UNIT	PAPER NUMBER
			1615	
			MAIL DATE	DELIVERY MODE
			06/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)			
	10/659,840	GREESON ET AL.			
Office Action Summary	Examiner	Art Unit			
	NEIL LEVY	1615			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING D. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period v. - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). Status	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from , cause the application to become ABANDONE	N, nely filed the mailing date of this communication. D (35 U.S.C. § 133).			
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,—	Responsive to communication(s) filed on <u>16 May 2007</u> . This action is FINAL . 2b) This action is non-final.				
,—	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4) Claim(s) 1,2,4-14& 16-21 is/are pending in the 4a) Of the above claim(s) is/are withdraw 5) Claim(s) is/are allowed. 6) Claim(s) 1,2,4-14& 16-21 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or Application Papers	wn from consideration. r election requirement.				
9) The specification is objected to by the Examine					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
Priority under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
Attachment(s)	_				
1) Notice of References Cited (PTO-892)	4) Interview Summary Paper No(s)/Mail D				
Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	5) Notice of Informal F 6) Other:				

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DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

Claims 1,2,4-14,16-21 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The rejection is retained as to the non-systemic criticality; & as to the new matter of claims 20,21, there is no support for a viscosity without limitation @ p. 6, contrary to attorney's argument.

Claim Rejections - 35 USC § 102

Claim1-2,4,5, 9, 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by WALSTEIN- 4176076

No patentable weight is given to future intended use of the composition.

Although no animal use is expressed, the fluids are non-carcinogenic and free of ecological damage-an answer to the problem of prior lubricant skin exposure (column 1, lines 33-38; column 2, line 68) and provide pesticidal effectiveness at ½ to 1% (column 2, lines 48-49; column 3, top). Surfactants are common, but not required (column 5, lines 25-26). The carrier is mineral oil base, of oils of 70-800 SUS (column 5, lines 11-

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13). Example 1 ,0ils of SUS 300 @ 67% and 75 SUS @ 25%; a mix resulting in 243

SUS. Example 3 provides another carrier, if given no viscosity to ester and

triethanolamine, of 198 SUS. If in contact with skin, the oil is that of the instant, the pesticides not, therefore, systemic.

Claim1,2,4,5,7,8 standrejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over MALLIS et al 2988473

Claims 1-2 are met by Example V-oil carrier of 103 SUS is mixed with pesticidal dimethylsilicone, a non-systemic insecticidal effect results. Petroleum oils are stated to be well known carriers applied to livestock, to repel flies (column 1, lines 24-30). Auxiliary toxicants include pyrethroids and pyrethrin (column 1, lines 35-41); and organophosphates-parathion (column 3, lines 63-65). The oil as described at Example 5 is considered to be the instant mineral oil, not otherwise defined.

Claim1, 5, 9, 10, 12, 14, 16, 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by LEWER et al 6455504

Spinosyns as insecticides effective against flies when applied topically to animals, the instant method, is at (column 14, lines 34-38 and column 17, line39 and column 18, line 13) applied as is known in the art (column 19, bottom; column 20, top). Exemplary formulations are topically applicable to humans, thus, systematically ineffective (column

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20, line 42; column 21, line 50) as shampoos with silicones, as carriers, of from 100 centipoise to 150,000,000, thus, within the range of the instant carrier viscosity.

Response to Arguments

Applicant's arguments filed 5/16/07 have been fully considered but they are not persuasive. Attorney's Arguments revolve around the stated critical aspect of the invention, nonsystemic action. However, the means to prevent such effects are only identified as an adaptation, unspecified. Further, the requirement for non –systemic action does not preclude systemic action, which can be permitted in addition to the non-systemic action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 57/1-272-10000

NEIL LEVY Primary Examiner Art Unit 1615